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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/815,982

03/22/2001

Frank R. Miele

VWAVE.001CP2

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05/08/2008

GAZDZINSKI & ASSOCIATES

11440 WEST BERNARDO COURT, SUITE 375

SAN DIEGO, CA 92127

EXAMINER

CWERN, JONATHAN

ART UNIT

PAPER NUMBER

3737

MAIL DATE

DELIVERY MODE

05/08/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 09/815,982	Applicant(s) MIELE ET AL.	
	Examiner Jonathan G. Cwern	Art Unit 3737	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☒ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 8, 10, 19-24, 36, 38, 41-44, 49, 50, 53-55 and 59-66 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8, 19-21, 23-24, 36, 53, 59-61 and 65 is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☒ Claim(s) 1-6, 10, 22, 38, 41-44, 49, 50, 54, 55, 62-64 and 66 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 4/23/02 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This application is in condition for allowance except for the following formal matters:

Drawings

The drawings are objected to because: In Figures 4a and 4b, label the x-axis as "TIME(SEC)". There appear to be several errors in Figure 20a, and corresponding text in the specification (page 39, lines 21-28). In the specification, reference numerals 2040, 2042, 2044, and 2046 are listed, however their description does not correspond with the elements labeled in the drawings in Figure 20a. Also, there is no element 2040 in the drawings, and there is no element 2048 in the specification. Therefore, the elements appear to be incorrectly labeled either in the specification or in the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet"

pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: In Figure 5a, reference numeral 500 is not in the drawings (page 18). In Figure 7, reference numerals 674 and 694 are not in the drawings. In Figures 8 and 9, reference numerals 801 and 810 are not in the drawings (page 23, line 13 and 27). In Figure 11, reference numeral 846 is not in the drawings (page 26, line 26). In Figure 30d, reference numeral 3030 is not in the drawings (page 44, line 28). In Figure 33, reference numerals 3302, 3304, 3306, and 3308 are not in the drawings (page 53, lines 18-20). Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: In Figures 8 and 9, reference numerals 9 and 841 are not in the specification. In Figures 15 and 16, reference numeral 1600 is not in the specification. In Figure 23, reference numerals 2042 and 2302 are not in the specification, page 40, lines 19-31. In Figure 35, reference numeral 3506 is not in the specification (page 52, lines 9-19). Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities: On page 1, page 24, and page 36, the status of the related and co-pending applications should be updated. On page 11, line 28, insert a space between "Figure2". On page 21, line 18,

oscillator 620 is incorrect, and should be replaced with "oscillator 670" to correspond with Figure 7.

Appropriate correction is required.

Claim Objections

Claims 1-6, 10, 22, 38, 41-44, 49-50, 54-55, 62-64, and 66 are objected to because of the following informalities:

In claim 1, "said act of locating" lacks antecedent basis.

In claim 10, "said artifact" lacks antecedent basis.

In claim 22, "the Doppler shift" lacks antecedent basis.

In claim 38, "said analog-to-digital converter" and "said pressure signals" lack antecedent basis.

In claim 42, "the sine and cosine functions" lacks antecedent basis.

In claim 49, "the output of said act of applying" lacks antecedent basis.

In claim 50, the word "resp" appears to be a misspelled word.

In claim 53, "the tissue" lacks antecedent basis.

In claim 54, "the square of the envelope" lacks antecedent basis.

In claim 62, "the location of said blood vessel" lacks antecedent basis.

In claim 63, there is improper means plus function language.

In claim 64, on line 8, "apparatus" should be inserted after said in "said for processing". Also, "said pressure signals" lacks antecedent basis.

In claim 66, "the output of said step of applying" lacks antecedent basis. Also, it is unclear as to how the preamble relates to the claim, as there is no step of positioning a blood pressure sensor.

Appropriate correction is required.

Prosecution on the merits is closed in accordance with the practice under *Ex parte Quayle*, 25 USPQ 74, 453 O.G. 213, (Comm'r Pat. 1935).

A shortened statutory period for reply to this action is set to expire **TWO MONTHS** from the mailing date of this letter.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Cwern whose telephone number is (571)270-1560. The examiner can normally be reached on Monday through Friday 9:30AM - 6:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Casler can be reached on 571-272-4956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jonathan G Cwern/
Examiner, Art Unit 3737

/Ruth S. Smith/
Primary Examiner, Art Unit 3737